

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**SERVICIO MARINA
SUPERIOR, LLC**

Plaintiff,

v.

**MATRIX INTERNATIONAL LTD.,
Defendant, and ALTER TRADING
CORPORATION, Garnishee**

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CIVIL ACTION NO.: 07-770

MOTION TO CONDEMN FUNDS

COMES NOW Servicio Marina Superior, LLC (“Servicio”) and moves the Court for an order condemning funds which are currently held by the clerk, and as grounds for this motion shows as follows:

1. On October 30, 2007, the Court issued a Writ of Foreign attachment directing Alter Trading Company (“Garnishee”) to provide an accounting to the Court of all debts owned by Garnishee to Defendant Matrix International, Inc. (“Defendant”) (Doc. 5).

2. On November 26, 2007, Garnishee filed an answer stating that it was indebted to Defendant in the amount of \$134,251.94, and that it was holding said funds awaiting further order of this Court. (Doc. 7).

3. On September 8, 2008, the Court entered an order dismissing Garnishee upon payment into Court by Garnishee of the sum of \$134,251.94 (Doc. 33). On September 23, 2008, the clerk noted receipt from the Garnishee of the sum of \$134,251.94 (Doc. 35).

4. On December 18, 2008, the Court entered a judgment in favor of Plaintiff against Defendant for the sum of \$294,058.63 (Doc. 52).

5. The Court has denied Defendant's Motion to Alter or Amend the Judgment (Doc. 57).

6. The automatic stay of execution pursuant to Federal Rule of Civil Procedure 62 has expired, and there is currently no stay of execution of the judgment.

7. A maritime attachment has two-fold purpose: first, to compel appearance; and second, to condemn for satisfaction. *Trans-Asiatic Oil, Ltd. S.A. v. Apex Oil Company*, 743 F.2d 956 (1st Cir. 1984).

8. Plaintiff desires to have the funds held by the clerk of the Court released to Plaintiff in partial satisfaction of the judgment which Plaintiff obtained against Defendant.

WHEREFORE, the above premises considered, Plaintiff respectfully requests the Court to enter an order condemning the funds currently held by the clerk in this case and ordering that said funds be paid to Plaintiff in partial satisfaction of the judgment previously entered against Defendant by this Court.

/s/ J. Marshall Gardner
J. MARSHALL GARDNER (GARDJ8459)
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served on the following counsel of record by electronically filing with the Clerk of the Court using the CM/ECF system which will send notification of such filing on this 20th day of April, 2009:

Gregory C. Buffalow, Esquire
Alford, Clausen & McDonald, LLC
One St. Louis Centre, Suite 5000
Mobile, Alabama 36602

/s/ J. Marshall Gardner
J. MARSHALL GARDNER